LAND PLANNING & DESIGN

CUNNANE STRATTON REYNOLDS

Our Ref: EMP/21420C

ABP Ref: ABP-310461-21

Mary Tucker
An Bord Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

AN BORD PLEANÁLA
LDG- _____
ABP- _____
16 MAR 2023
Fee: € _____ Type: _____
Time: 16.09 By: hand

16th March 2023

BY HAND

Dear Mary,

Further Development of a Quarry

Application for substitute consent under Section 261A of the Planning and Development Act 2000 as amended.

Laurence Behan, Windmill Hill, Rathcoole, Co. Dublin

I refer to the above and to your letter of 24th February 2023 requesting a response, where the applicant is so minded, under Section 131 of the Planning and Development Act 2000, as amended, to a number of observations received from third parties in respect of this Substitute Consent application.

Your letter of 24th indicates that a response should be received by no later than 16th March 2023.

We act on behalf of the applicant, Laurence Behan, in this instance and set out below our response to the observations on the above application for future quarry development at above address. Those observations have been responded to, in the order in which they are received from the following bodies below:

(1) The Department of Defence;
(2) South Dublin County Council; and finally,
(3) Transport Infrastructure Ireland.

At the outset we would point out for this S261A application response, as we did for the S37L application response, that the time given to us under Section 131 and as per the Board's letter has been wholly inadequate for the purposes of enabling us to provide the response that we would like to have provided in support of our client's case. Nowhere is that more evident than in our response to item (1) above where it has simply not been possible to provide the aviation impact assessment requested due to difficulty finding such an aviation expert and having one that could provide what the Department has requested within the timetable imposed by An Bord Pleanála.

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We believe however that that matter, like a number of other concerns raised in the observations can be dealt with by way of planning condition. Within this submission we advocate acceptance of planning conditions where concerns have been raised and this is a position accepted by SDCC who accept the principle of development in this instance.

The following consultant firms have assisted in the preparation of this response to the observations circulated by the Board to the applicant.

- **Cunnane Stratton Reynolds Ltd** – town planning, landscape design and visual assessment and agent for the applicant in this instance; and
- **WSP Ireland Consulting Ltd** – design, drawing preparations and engineering and environmental consulting services.

We would like to point out that since this application was lodged in June 2021 the quarry has continued operation and it is a working quarry and in doing so the circumstances have changed within the site in terms of works, most noticeably with the relocation of some features, which do not affect the merits of our case nor the assessment of impact undertaken when the application was lodged nearly two years ago. Where more recent works or development requires planning permission, our client will lodge any planning application as necessary. The Board will be aware, however, the starting point for any further regularising planning applications for works done since the lodgement of both the s37L and s261A applications is the grant of substitute consent in this instance.

This submission on the observations received on the Substitute Consent should be read in conjunction with our client's response on the s37L application. Please note that from our reading of the material submitted by the other parties concerned, the Department of Defence and Transport Infrastructure Ireland submissions for both the S37L and S261A are exactly the same and the response of the local planning authority (SDCC) is substantially the same.

1. **Department of Defence**

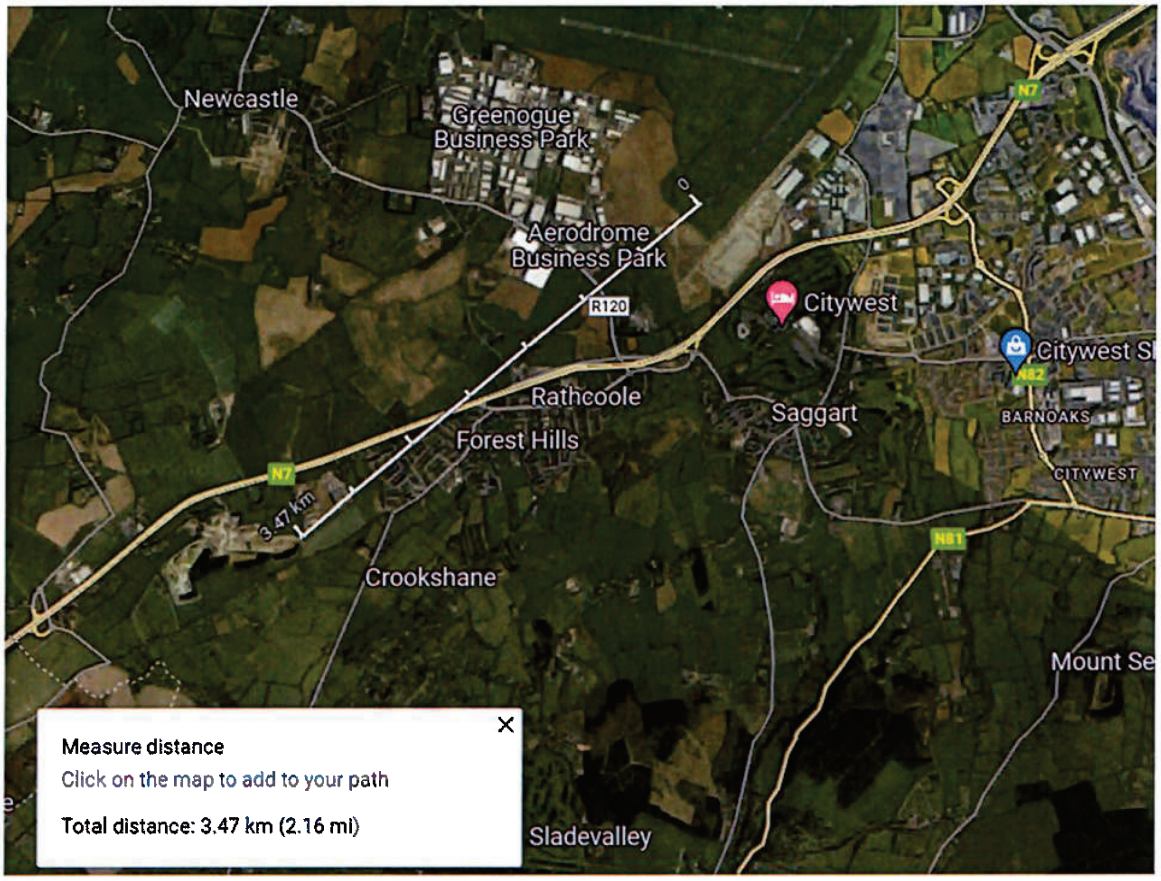
By letter dated 30th July 2021 the Department of Defence, following consultation with the Air Corps at Casement Aerodrome, lodged the following observation, on the s261A Substitute Consent application.

> *'Due to the proximity to Casement Aerodrome and to low level routes, Military Air Traffic Services requests an Aviation Impact Assessment on all potential effects on Irish Air Corps flight operations.'*

Our response, on this Substitute Consent application, is as per the accompanying s37L response, as follows.

The aerodrome in question is located some 3.47km from the end of the runway nearest the quarry in question to the nearest point of the quarry as shown below. This is considered a relatively substantial distance away. Figure 1 below shows the respective locations and the measured distance as the crow or plane flies from one to the other.

Figure 1: *Location and distance between the nearest part of the subject quarry and the end of the nearest runway at Casement Aerodrome*



It should also be clear from Figure 1 above that the quarry the subject of this s261 application is not located on the direct flight path of either of the 2 no. runways present at Casement Aerodrome. We would therefore contest the expressed view of the Department that the subject quarry is in any way proximate to the aerodrome or either of its runways, even the nearest one to the quarry, the subject of our client's application to the Board.

There is one significant fact that we would like to draw to the Board's attention and that is that for quarries, most of the work involves excavation and extraction into and below the ground level, with occasional and relatively low-level structures involved and in the case of this Laurence Behan Quarry there are no structures on site in excess of the equivalent of a three storey structure. This compares with predominantly two storeys structures in the locality including at the intervening housing estate.

As can be seen from Figure 1 above, more directly aligned with the direction of the run way is the village of Rathcoole and the intervening housing estate at Forest Hills

In responding further to this observation from the Air Corp, via the Department of Defence, we would direct the Board to Figure 2 below which is taken from deep inside the subject quarry site towards the direction of the nearest runway at the Aerodrome. It should be noted that at the highest point within the site all construction and all equipment and any necessary structures, either permanent or temporary, are well below existing and retained topographical features on the site and this is clear from Figure 2 below.

Figure 2: *Image showing the highest point of the application site in the context of excavation and quarrying below.*

On this concern raised by the Department we state again that the period permitted to the applicant in this instance has not been sufficient for any aviation expert to undertake the necessary work to respond to this item as our client would have wished. However, we believe that the above discussion of the facts and associated images indicates no impact on the safe and efficient operation of Casement Aerodrome. In other words, for all airborne vehicles to clear the natural hill they will have to clear the operational elements and structures of the subject quarry.

The location of the subject quarry (encircled in red) in the context of flight paths is shown in Figure 3 below.

Figure 3: *Flightpaths for Casement Aerodrome in relation to the subject quarry*

It is worth pointing out that it is the applicant's view that the need for an aviation impact assessment would not have been easily predicted as being required or needing to be provided at the time the application was lodged, given the above. We would also point out that the Department have not issued a recommendation for refusal of planning permission and there is no indication whatsoever that the Department is in any was cast against this s261 application. In these circumstances it appears that the request for the Aviation Impact Assessment is a routine exercise on the part of the Department of Defence as opposed to being based upon real concerns in respect of possible effects of the quarry.

(2) South Dublin County Council

Before addressing the concerns expressed by the local planning authority it is worth making a few key points about their observation.

The submission from South Dublin County Council (SDCC) comprises several components. Firstly, there is no recommendation to the Board from the Chief Executive for refusal of planning permission in this instance, and they would have been well within their rights to recommend refusal had they felt that this was the right thing to do. The zoning of the site is identified as RU with an objective '*to protect and improve rural amenity and to provide for the development of agriculture.*' SDCC also acknowledge that an extractive operation or concrete asphalt plant in or adjacent to a quarry is considered as permitted in principle. Windmill Hill is recognised as Preserved or Protected Prospect no. 3. The proposal is considered in Section 4 of the SDCC submission as being compliant with Section 4.6.0 (Rural Economy) where development which has a social or economic connection to the local area is permitted. The proposal is also permitted under ET9 Objective 1 which supports rural enterprises at suitable locations within the county.

Consideration of planning policy by SDCC

Consideration of mineral extraction is dealt with under Economic and Tourism (ET) Policy 10 Mineral Extraction. ET10 Objective 1 facilitates mineral extraction in suitable locations subject to protection of environmental quality. The proposal also is considered consistent by both the first and second parties in respect of ET10 Objective 2 which limits the operation of extractive industry and ancillary uses at environmentally sensitive locations whereby extraction would result in significant adverse effects and /or prejudice the protection of the County's natural and built heritage. It is also acknowledged that the preservation of Windmill Hill as per Policy HCL3 SL03. The landscape character of the area is identified as of high overall landscape value.

Background, Identification of Planning Irregularities, and Steps to Regularise These

It is noted that a quarry has existed on the site since 1710. The background to the quarry on site is perhaps more important in the context of the s261A application than for the s37L and for this reason SDCC provide further detail on this Substitute Consent application than they do for the s37LIn Section 2 of their observation on the Substitute Consent application where they provide background by way of a chronology of what SDCC see as key events on site over the years. Of note should be the fact that although it was an established pre-1963 quarry, planning permission was subsequently granted in 1968. There are a number of planning inconsistencies and irregularities that they have identified in Section 2 of their submission on the s261A Substitute Consent that we would like to address at this juncture to be considered with a number of features on site identified in Section 4.3 of the SDCC observation.

In their Section 2.4 SDCC state that intended future workings cannot form part of the assessment of the Substitute Consent application. We accept that point entirely. All we can reiterate at this stage, is that we confirm on behalf of our client that any future workings that require planning permission will be the subject of future planning applications as when and where necessary. Furthermore, we have resisted the extension of the red line in this instance and in the context of the s37L to reduce potential confusion over what is proposed in this instance under s261A and also s37L.

Within Section 2.5 it is stated that a storage/drying shed and a concrete plant located within the administration and plant processing area that do not hold pre-1963 or exempted development status require regularisation (see item 5 immediately below). We accept this and will seek to regularise this once an appropriate planning platform for doing so is established through the grant of Substitute Consent in this instance. In 3.7 SDCC recognise that the concrete plant and storage drying shed erected within the last 3 years does not form part of this application. We confirm this also.

We note also, that SDCC points out that no planning permission can be traced for the recovery of construction and demolition inert waste materials. In this regard it is important to confirm that there is no recovery of construction and demolition inert waste materials in operation at the site at present. Previously a COR was granted to the applicant which has since expired. In fact, according to the applicant, SDCC advised the applicant to seek grant of Substitute Consent prior to applying for a waste licence.

In Section 4.3 of the SDCC observation it is stated that there are a number of features that do not appear to have planning permission. These include the following for which separate and forthcoming applications for planning permission will be submitted by our client if the planning platform referred to above, or base planning regularisation, through the grant of Substitute Consent in this instance, is achieved.

Those components referenced in Section 4.3 of the SDCC observation is as follows:

1. 2 no. office buildings;
2. 4 no portacabins;
3. 4 no. containers;
4. 2 no storage/maintenance sheds;
5. Storage/drying shed;
6. Water recycling unit and silt press;
7. A concrete plant and washing, crushing, screening and bagging plants.

The following items are in the same place as shown in Drawing 4B: **item 1** above namely 2 no office buildings; portacabins 1, 2 and the materials testing laboratory portacabin 4 of **item 2** above are in the same position with portacabin 3 removed; In respect of **item 3** container nos. 1 and 2 are in the same place as shown in Drawing 4B lodged initially with the s261A application. Please note that containers 3 and 4 have been removed; In respect of **item 4** both maintenance/garage and storage shed exist on site as shown on Drawing 4B; in respect of **item 5** the storage and drying shed is located as shown on Drawing 4B; the water recycling has been removed from the site and the silt press is located on site as shown in Drawing 4B under **item 6**; and finally, under **item 7** above, the concrete plant has been removed and a new facility has been provided in that location as an upgrade. The washing, crushing, screening plants have been removed. The bagging plant remains in place as shown in Drawing 4B. This means that all of items 1 to 6 inclusive either are covered under the S261A or have removed altogether with the exception of the concrete plant where a new planning application will be required for the new concrete plant facility. We trust this information will be of assistance when the inspector undertakes his/her site visit.

The relocated structures are not of such a variation to those details provided already additional impact as pointed out in the Stage 1 Remedial Appropriate Assessment Screening Report or in the rEIAR, as required to be re-assessed. The portacabins/containers are a case in point where there has been a slight re-location but the assessment of potential impact stays the same, insofar as no significant impact is anticipated. It should be noted that on occasion and as part of the site operations shipping containers are temporarily found on site for short periods (up to 2 weeks), after which they are removed from site.

The applicant accepts that the following items on site do not have planning permission. These include the berm to the north identified in yellow within the SDCC observation on the s261 (Figure 4.1); the associated access also shown within SDCC Figure 4.1; an area of levelled ground in the northern portion of the plant area (north of the storage/drying shed); the relocated fuelling area and associated interceptor; and finally, as identified above the concrete plant facility.

We reiterate, all of the above items, in the immediately preceding paragraph, will be the subject of a planning application(s) to regularise in planning terms these items. The above stated willingness to rectify outstanding planning matters with any necessary future planning applications applies to all items identified above as of concern to the local planning authority including items 1-7 above.

As a consequence of the above, please note that the extension of the red line is not required any further towards the National Monument previously referred to and therefore any encroachment of works or development, and indeed the redline, towards the National Monument will be resisted by the applicant.

No Previous Convictions and Current Enforcement Considerations.

SDCC also state that no previous convictions are registered against the applicant with South Dublin County Council. Reference is made to 2 no. enforcement files, SDCC planning register references S7457 and S8076.

Planning Register Reference file S7457 relates to an Enforcement Notice dated 26th November 2015 in respect of the following: *"No Planning permission and within the curtilage of a protected structure".* This matter was before the District Court on foot of a summons issued under s.154 of the PDA 2000 as amended. The case was dismissed. In defending the case it was proved that permission was granted for the site, which was demonstrated by producing the relevant map from SDCC website to the court.

Planning Register Reference S8076 relates to a warning letter dated 5th October 2018 which was issued by SDCC planning authority while judicial review proceedings were in train. Our client's then planning consultant Ger Fahy contacted SDCC alerting them to the fact that leave to apply for judicial review had been granted by the High Court. The following was issued in an email dated 27th November 2018 from SDCC Planning Enforcement Department in respect of the matter, which states:

> *"I wish to advise that your submission/observation will be taken into consideration by the Planning Authority when deciding whether or not to issue an Enforcement Notice under Section 154 of the Planning & Development Act 2000 (as amended) in relation to alleged unauthorised development at the above location.:*

SDCC did not issue an Enforcement Notice. Furthermore, our client succeeded in the judicial review (see judgment of Barrett J. *(L Behan v An Bord Pleanala [2020] IEHC 133*) in which the Court made orders permitting a fresh application for substitute consent pursuant to s.261(A) PDA 2000 as amended and an application for further development at the site under s.37L PDA 2000 amended. Please find copy of the judgment attached.

Clearly no issues arise in respect of the enforcement case files referred to at 4.4.1 of the Report submitted by SDCC in respect of the application for further development pursuant to s.37L.

Our client's willingness to rectify any outstanding planning matters through further planning applications.

In reference to SDCC Section 5.2 in respect of Area A and alleged commercial activities taking place to the north at Area B (set out in Figure 5.1 of the SDCC observation on this s261A application report) to the west of the subject application we would point out that Area A is the mechanics garage and storage yard which was purchased in 1965. Area B was purchased in 2001. The house and shed were constructed pre-1963. The shed was repaired and upgraded since the property was purchased more than 7 years ago. There is no quarrying related activity undertaken from this location and any vehicles or machinery in this location are of an agricultural rather than quarrying nature. This is a matter that our client will gladly engage with the local authority on at some stage in the future and most likely after determination of the s37L and s261A applications, so that any concerns by the local authority can be dealt with, on the planning status of these works.

The property located within Area B, also shown within Figure 5.1 of the SDCC observation on this Substitute Consent, is currently used for commercial storage, unrelated we emphasise to any quarrying activity, and is not used by the applicant. We confirm that our client will lodge a planning application for retention at the earliest opportunity. We emphasise that the current activities there are unrelated to either application before the Board currently or to our client's

quarrying business. Neither development at Area A or Area B is part of the Substitute Consent application.

Area A and Area B is a matter that our client will gladly engage with the local authority on at some stage in the future and most likely after determination of the s37L and s261A applications, so that any concerns by the local authority can be dealt with, on the planning status of these works.

We emphasise that the current activities there are unrelated to either application before the Board currently or to our client's quarrying business. Neither development at Area A or Area B is part of the Substitute Consent application. We turn now to the substantive comments of SDCC to the s261A application which are identified in Sections 9.1 and 9.2 of their submission

Issues Raised in Section 7 (Anticipated/Previous Significant effects on the Environment or European Site

SDCC acknowledge in their Section 7.1 that six Natura 2000 sites are located 15km away. Three pNHAs are located within 5km of the application site. SDCC seem to accept in their 7.2 that that there are no risks posed to Natura 2000 sites or protected species.

Section 7 of the SDCC Observation raises a number of points. We are pleased to address these as follows.

The planning authority states in Section 7.3 that under Section 3 of the Remedial Stage 1 Screening Report that under water, air quality, dust and noise that the retrospective works would not have posed risks to the Natura 2000 habitats or species due to distance and no defined source of pathway. SDCC state however that the subject quarry would have had a significant impact on hedgerows, pastureland, resulting in the loss of fauna once inhabiting this environment. The rEIAR clearly indicates that this impact is not significant, and the Board are referred to Chapter 4 of the rEIAR and in particular Section 4.6 onwards (Impact Assessment). The potential for impact on Natura 2000 sites or species is rounded off by SDCC in their observation with the comment that impact from dust, noise and potential water pollution on humans and animal health can be mitigated.

Before addressing the substantive comments from SDCC on the Substitute Consent application which is contained within Section 9 of the local planning authority's observation, we wish to point out that SDCC acknowledge themselves that (i) activities at the site have not resulted in any notified accidents or disasters which are considered to be 'major'. In respect of (ii) no significant impact on humans was found. It is considered under (iii) on ecology and biodiversity that there has been a loss of habitat for badger, rabbit, fox, bats (with potential for roosting, foraging and commuting) and farmland/hedgerow birds. The impacts are listed by SDCC on page 14 of their observation but mitigation is proposed by way of: good practice management of plant and machinery to continue, all retained habitats to be protected and there is, and will continue to be, habitat creation on site to address tree and hedgerow loss on a 'like for like basis'; a concept restoration plan is to be implemented and our client will accept a planning condition to this effect. It is worthwhile noting that bee keeping and planting of wildflowers and meadow to support the bees are ongoing at the site, and is supported by the applicant.

In respect of land, soils and geology under item (iv) on page 14 of the SDCC s261A observation, it is stated that the impact of removal of rock has had an irreversible impact, as one would expect with a quarry. The local authority is accepting of mitigation proposed under their (iv). Under 'Water' in Item (v) SDCC accept that there are no watercourses passing through the site. They also accept that water attenuation capacity remains as held within the site. In respect of air quality and climate under item (vi) the local authority accept that a comprehensive Environmental Management Plan will be provided for approval by SDCC if Substitute Consent

is granted by the Board on this occasion. In respect of noise and vibration, SDCC recommend the provision of a comprehensive Environmental Management Plan to be approved by them. Under (viii) (Cultural Heritage) it is acknowledged that there is potential for archaeological remains in proximity to the site and there is specific mention of the need for no further quarry extension to the south. It is noted that save for the comment immediately above on archaeology to the south no remedial measures are feasible. In regard to item (ix) and landscape and visual impact, the impacts are recognised as adverse and long term to permanent. SDCC indicates that the visual impacts of the works on the surrounding areas and views should not be underestimated. The visual impact of the subject development has not been underestimated. It has been fully assessed and Section 10.6.1.3 of the rEIAR identifies slight to moderate adverse impact on landscape character and a slight adverse long-term effect on land use with an increased area of mineral extraction. After the cessation of the quarry there will be some slight beneficial long-term effects through the restoration of the lands to provide a diverse range of vegetation cover, habitats and water bodies, which will help improve the character of the site and its immediate surroundings. Table 10.7 of the rEIAR summarises the visual impact to be low or negligible in terms of magnitude of change, with the significance and qualitative change to visual amenity to be significant and adverse in a relatively few viewpoints in the short to medium term reverting to moderately or slightly adverse in the long term.

In respect of traffic under item (x), crucially the planning case officer, the Chief Executive, and the Roads Section all have no objection to the subject Substitute Consent application. In fact, page 16 of the SDCC observations states that *'The Roads Department of SDCC specifically states no objection to the Substitute Consent application subject to conditions including the provision of an upgraded junction (access and egress arrangement)'*. Finally, in respect of item (xi) on Material Assets it is only pointed out that there is a major water main crossing the land and that issue is dealt with in detail below in the context of planning conditions advocated by the local planning authority.

Addressing Concerns raised by SDCC as set out in the Chief Executive's Report Section 9

The concerns set out by the County Council are the result of an extensive and detailed assessment of the application. As indicated above there is no recommendation for refusal but a series of detailed concerns with an associated request for further information, which our client is pleased to provide. Many of those concerns are capable of being resolved by way of planning condition.

Within 9.1 of the SDCC submission the local planning authority state the following.

Our response to the further information requested is as follows in the format that queries from SDCC are identified in bold below with our response following directly in normal type face.

The local planning authority recognises in the context of no recommendation for refusal the substantial work that has been carried out to produce the Substitute Consent application and the rEIAR, which they welcome. The Planning Authority also understands the challenges of assessing this proposal for retrospective works due to the expanse of time and the significant works that have taken place at the site since 1990 and 1997 respectively. The Planning Authority considers that the items as laid out in Section 9.2 require further consideration. The County Council's comments contained within Section 9.2 of the CE's report and our response are set out below and in the majority of cases advocate planning conditions to ease any lingering concerns.

The following is stated in respect of SDCC Observation para 9.2.1.

Item 9.2.1: Works that may have taken place outside of the application red line. Works have continued unabated since the submission of the application(s). ABP should seek further clarity to establish the full extent the retrospective development.

Response

The applicant acknowledges that works have been undertaken since the Substitute Consent application was lodged with ABP in June 2021 (nearly two years ago). The works identified above, as being outside the red line i.e., the berm/associated works in Figure 4.1 and the levelling of an area for storage and parking of vehicles; along with structures identified below under 9.2.3 below, will each be the subject of fresh applications, where this is necessary, once the base position is established through determination of this Substitute Consent application if the Board sees fit to issue an approval of Substitute Consent.

Item 9.2.2: Clarity of the use of the word average when describing the average depth of 173mAOD'. In the interests of successfully assessing the retrospective development and the concurrent application made under SL, accurate description and details of development should be stated and should be unequivocal.

Response

Due to the extent of the site and the variation in working depth that can exist across benches and working areas, the development description provided 'a current average working depth of approximately 173 mAOD'. It was identified from topological survey data that extraction was by two benches, to an average depth of 173 mAOD. This correlated to the approximate working depth of the active extraction area in the southwest of the site.

An unequivocal final floor level has also been provided in the development description. The final floor level was identified as 'approximately 150 mAOD', (it should be noted that the use of 'approximately' or 'circa' is routine language in identifying quarry finished/final floor levels given coarse blasting/mobile plant extraction methods).

In respect of Item 9.2.3 the following is stated:

Item 9.2.3: The Planning Authority cannot trace planning permission for the following development:
a. 2 x office buildings,
b. 4 x portacabins,
c. 4 x containers.
d. 2 x storage/maintenance sheds,
e. a storage/drying shed,
f. water recycling unit and silt press.
g. a concrete plant and washing, crushing, screening and bagging plants.

The Planning Authority recommend that additional information should be requested to establish the status of these works/development and seek the applicant, to submit all

relevant planning permissions for the above development and/or a proposal for regularising the development, if necessary.

Our Response

Please see our comments above on these 7 features, identified in our reference above to Section 4.3 with regard to these and other features of the site for which planning needs to be regularised. We believe the above text clearly identifies the planning status of the above and other features on site. The applicant accepts that several of above items (a) to (g) would appear unauthorised and that planning permission is required where re-location is involved but we would point out as we did above, that several of these features have been removed.

In respect of Item 9.2.4 the following is stated by SDCC.

Item 9.2.4: Water runoff from the site can reach the N7 and the River Griffeen. The rEIAR states "As part of the water management system on the site, water abstracted from the western quarry pit is discharged following periods of prolonged rainfall to a culvert located on the northern portion of the Site adjacent to the N7/M7". It also states that attenuation capacity remains within the lands. Notwithstanding the rEIAR stating that the residual adverse effect is not significant and not greater than slight, the Planning Authority considers that further information and clarity should be sought in this regard especially having regard to the 'slightly elevated concentrations of arsenic' in samples as detailed in Section 3.1.2. of the Remedial Stage 1 Screening for Appropriate Assessment report.

Our Response

Clarification of discharge and site attenuation:
A pump has been installed in the western pond area (SW1) as a supply of water for site processes in the plant area. The pump infrastructure is installed at a bench level to the eastern side of SW1 on a bench which is raised above the water level. A layout of the water management flows has been provided in Chapter 6 – Water of the rEIAR, and displayed in Figures 6.2 and 6.3. It should be clarified that the discharges to the culvert are only pumped during periods of prolonged rainfall and to prevent water levels reaching the pump's infrastructure on the benched area on the downstream slope of the pond; and, is not as a result of any deficit in attenuation capacity of the site. Our client noted that the discharge is infrequently utilised, and water has not been pumped to the culvert since approximately Q1 2022.

Section 6.4.9 of the rEIAR identifies general heights of the pond levels in the site and their lower elevations in comparison to surrounding natural topography. The lower pond elevation relative to the higher elevation surrounding areas has mitigated the risk of accidental discharges of large volumes of water from the site to surrounding areas during the review period (from 1st February 1990). Please refer to Section 1.7.1 of the rEIAR). There have been no reports found to indicate flooding from the site to areas external to the Site boundary over the review period.

In addition, please refer below to the response to item 9.2.8 and item 9.2.9 where the attenuation capacity is described further.

The western pond area (SW1) is considered to be a mixture of rainfall and groundwater, and as noted above, it is only periodically pumped following periods of prolonged rainfall to the discharge culvert near the site entrance. The discharge culvert drains to the N7/M7 roadway

drainage system, where it was assumed for the purposes of the assessment, to discharge to a tributary of the River Griffeen close to Rathcoole.

Clarification of arsenic source in groundwater:
Arsenic is not utilised on site in reagents or for inputs to plant site processes. Concentrations in excess of the EPA's groundwater threshold value (GTV) of 7.5 µg/L for arsenic (EPA, 2023) have been noted in previous water sampling campaigns at the site (Golder 2021a & b). The source(s) of the arsenic is considered to be geogenic (natural) in origin, arising from interactions with the bedrock geology and/or soils of the local area.

As discussed in Golder 2021a, between 2006 and 2018, groundwater sampling was carried out at the site by Byrne Environmental (2015) and Viridus Consulting (2020). Byrne Environmental (2015) found the threshold value of 7.5 µg/L for arsenic was exceeded on four occasions in samples collected from MW2, Office Well, and the Chipping Plant Well in 2007, and Well A in 2013. The concentrations ranged from 10 µg/L to 35 µg/L. Exceedance is further noted above the GTV by Viridus (2020) in the Behan Well, in 2018 up to 12.4 µg/L.

Sampling conducted by Golder (2021a & 2021b) between 2020 and 2021, further highlighted arsenic concentrations above the GTV in borehole wells BH1, BH2, BH3, and BH4 ranging from 12.7 to 471.3 µg/L. The boreholes BH2 and BH3 are considered to be downgradient of the Site to the north. Exceedance was also noted at the L.Behan House well (13.3 µg/L), and the surface pit water sampling point SW1 (up to 69.9 µg/L). The L.Behan well which is elevated in arsenic is located upgradient of the site to the south and is unaffected by site operations. As noted above, the SW1 sample is considered to be a mixture of rainfall and groundwater.

The elevated arsenic concentrations are interpreted by WSP to be naturally occurring rather than related to processes or facilities at the site. Arsenic can be found almost ubiquitously in the environment at natural (geogenic) baseline concentrations (Smedley & Kinniburgh, 2002). Elevated groundwater arsenic concentrations in Ireland have been found to be associated with poorly productive greywacke or shale bedrock aquifers which form the bedrock geology of the site (McGrory et al., 2017).

Russell (2020) found geogenic arsenic contamination in private water supplies up to 871 µg/L in an area upgradient to the southeast of the site, surrounding Slievethoul and Slade Valley. The source of the arsenic was found to arise from the presence of arsenopyrite in quartz veins cutting through the local greywacke formations in the Kilcullen Group. Russell (2020) notes the presence of high arsenic in natural stream sediment samples collected by the Geological Survey Ireland's (GSI) Tellus project (GSI, 2019) in the nearby vicinity.

Elevated arsenic concentrations up to 217 mg/kg are recorded in stream sediments feeding into the River Camac, near Gortnum Cottages, approximately 5 km to the southeast of the Quarry. For context, Smedley and Kinniburgh (2002) suggest global averages of arsenic in stream sediments to be in the range of 2 to 8 mg/kg. Four soil samples collected as part of the SURGE soil sampling (GSI, 2023), between the Site and Rathcoole village (c. 2.5 km), have concentrations of 55.7 mg/kg (Sample 4357), 26.70 mg/kg (Sample 4358), 42.70 mg/kg (Sample 4360), and 38.80 mg/kg (Sample 4359). Baseline arsenic concentrations in soils are generally between 5 to 10 mg/kg (Smedley & Kinniburgh, 2002). Arsenic concentrations are therefore considered to be naturally elevated in the area. The following has been used in reference to the above assessment.

Byrne Environmental Consulting Ltd, 2015. Environmental Impact Statement for a Quarry at Windmill Hill, Rathcoole, Co. Dublin. November 2015.

EPA, 2023. Environmental Protection Agency, Ireland. https://www.epa.ie/our-services/monitoring--assessment/freshwater--marine/groundwater. Last Accessed: 14/03/2023.

Golder, 2021a. Remedial Environmental Impact Assessment Report (rEIAR) Behan's Aggregates. Report no. 20137776.R01.06.B0.

Golder, 2021b. Environmental Impact Assessment Report (EIAR) Behan's Aggregates. Report no. 20137776.R03.06.B0.

GSI, 2023. Geological Survey Ireland (GSI). Tellus Project Geochemical Data & Maps. https://www.gsi.ie/en-ie/programmes-and-projects/tellus/Pages/default.aspx. Last Accessed 14/03/2023.

McGrory, E.R., Brown, C., Bargary, N., Williams, N.H., Mannix, A., Zhang, C., Henry, T., Daly, E., Nicholas, S., Petrunic, B.M., Lee, M. and Morrison, L., 2017. Arsenic contamination of drinking water in Ireland: A spatial analysis of occurrence and potential risk. Sci Total Environ. 2017 Feb 1;579:1863-1875.

Russell, A. W., 2020. Geogenic arsenic contamination in the fractured Palaeozoic bedrock aquifers of South-East Ireland. PhD Thesis, University College Dublin.

Smedley, P. L., and Kinniburgh, D. G., 2002. A review of the source, behaviour and distribution of arsenic in natural waters: Applied Geochemistry, v. 17, no. 5, p.517-568.

Viridus Consulting, 2020. Behan Quarry EIAR Assessment VCL Geology, Groundwater & Hydrology completed data. Dated 14 January 2020

In respect of Item 9.2.5 of their observation SDCC state that:

Item 9.2.5: The definition of works defined as quarrying and a clear and unequivocal statement of what will be included in a grant of SC should be sought and clearly laid out to ensure compliance with any conditions attached to the consent.

Our Response

The works the subject of this s261A application are clearly set out and the works and development not falling within the terms of this application are also clearly set out in this document. We believe we have clearly distinguished between the subject S261A development and those unauthorised works, activities and development requiring planning permission as set out above. Our acceptance of planning permission being required at some stage in the future, and our client's acceptance of planning conditions recommended by SDCC is clear and unequivocal.

SDCC state the following at Item 9.2.6 in their observation on the subject S261 application.

Item 9.2.6: Section 11 Landscape and Visual of The Planning Report for file reference SDQU05A/4 states "During the site visit there was evidence of the high-risk alien invasive species Fallopia Japonica (Japanese Knotweed) on the external perimeter of the site adjacent to the entrance area. There is a real danger that it may already be present on the quarry site...as it could be imported into the site on the material for recycling or exported unwittingly..." The Planning Authority cannot trace mention of this species within the rEIAR, nor can it trace a Flora Assessment similar to that carried out for the "Retrospective Fauna Assessment'. Invasive plant species is mentioned fleetingly in Section 3.1.1 of the Remedial Stage 1 Screening for Appropriate Assessment. The Planning Authority recommend that ABP seek clarification on this matter.

Our Response

To confirm, the ecological habitat surveys included an assessment for the presence of alien invasive species. During these surveys Japanese Knotweed (*Fallopia Japonica*) was not identified.

An invasive species survey was undertaken by a WSP ecologist to address this item and has been provided as part of this submission. Given the limited timeframe to provide ABP with a response by no later than 16 March 2023, it was required to undertake a survey during a sub-optimal time of year. This limitation has been acknowledged in the report.

The Invasive Species Survey Report is provided in Appendix A of this response. The survey report concludes that the site has been inspected for the presence of invasive species as designated under S.I. 477/2011, and no invasive species were noted onsite.

SDCC state the following in relation to their Item 9.2.7.

Item 9.2.7: The applicant has not submitted surface water drainage plans for the proposed development. The applicant is required to submit a drawing showing existing surface water drainage layouts including attenuation and pollution mitigation devices up to and including the point of connection to the public surface water sewer. The drawing shall include the location of all Aj's, manholes, pipe size, material type and direction of flow. The drawing shall clearly show that the foul and surface water systems are discharging to separate pipe networks. Maps of the mains foul and surface water drainage networks may be obtained, if available, for required locations in South Dublin County Council by emailing: servicemaps@sdublincoco.ie. All works are to comply with the Greater Dublin Regional Code of Practice for Drainage Works.

Our Response

Drawings 3A, 3B, 4A and 4B, submitted as part of the s261A substitute consent application pack, provide layouts of the overall site and plant areas for 'Baseline' (ca. 1st February 1990) and 'Existing'.

Due to the nature of the development, and active quarry, the majority of water on site infiltrates to ground. Based on the layout and topography of the site in 1990 and present, any precipitation falling on the site would either directly infiltrate the ground or flow towards the existing topographic low points: the two areas of excavation or the entrance to the site.

A fuel/oil interceptor is included in the design of the site's fuelling area in order to prevent contamination of groundwater on site. As described previously in this response, there are certain structures on site which will be the subject of a planning application(s) to regularise these items in planning terms; this includes the relocated fuel storage and fuelling area along with the associated tank bunding, hardstanding and fuel/oil interceptor. The planning application for relocated fuelling area will include, as appropriate, surface water drainage layouts and the locations of pollution mitigation devices, (e.g., tank bunding and the fuel/oil interceptor).

SDCC state in their Item 9.2.8 the following.

Item 9.2.8: It is unclear how surface water is managed and attenuated on site to and how discharge is limited to greenfield run off rates. The applicant should submit a design calculation and plans clearly showing how surface water up to and including the 1:100 (1%) year critical storm with climate change allowance will be attenuated on site and discharged at no greater than pre-developed greenfield run off rates.

Our Response

The quarry has been developed on the flank of a hill where the original terrain sloped at around 1:20. The landcover classification gives the greenfield site as 'Agricultural Areas' and 'Pastures' (EPA, 2018). This landcover overlays soils consisting of superficial deposits of clayey drift according to the Irish Soil Information System (EPA, 2021). While the subsoils underlying the study area have been identified as bedrock at surface, runoff from the hillside would have drained directly into the River Griffeen at the base of the hill.

The application area (for Substitute Consent under Section 261A) covers 28.8 ha where the quarrying activities during the assessment period have resulted in the further excavation of deep pits into the hill side. As a result of the workings surface run off from approximately 80% of the quarry no longer contributes to the River Griffeen, and instead drains into the quarry pits. Runoff and direct rainfall entering the quarry pits are subject to seepage into groundwater and evaporation, while more extreme storm events will be significantly attenuated by the large storage capacity of the pits.

The remaining 20% of the application area mostly comprises of a relatively flat area of granular surfacing with no formal drainage system. During storm events surface water soaks into the granular surfacing or is directed towards the adjacent pits. Only approximately 1.3 ha of the site positively slopes towards the site entrance of the N7/M7 roadway, which included the access road. The runoff from this area is directed to the N7/M7 roadway drainage, where it was assumed for the purposes of the assessment, to discharge to a tributary of the Griffeen river close to Rathcoole.

By the nature of the development being a quarrying operation it can be seen that, contrary to increasing the peak runoff rate, it in fact significantly attenuates the pre-development greenfield runoff rate. The approximate 4.5% of the site that contributes to direct runoff is a small proportion of the overall application area greenfield runoff for all storm events, including climate change allowances.

Section 6.4.9.1 of the rEIAR (Extreme Weather Events) provides storage of incident rainfall calculations where the runoff from a rainfall return event with a 1,440 minute (1 day), 1 in 100 year return period (87 mm) is taken to represent a worst-case scenario. The assessment

concludes that there is sufficient short-term water storage capacity is provided on the west pond alone.

It is therefore WSP's view that the development does not result is surface water discharges greater than that for the greenfield site, and as a result Sustainable Drainage Systems (SuDS) are not required.

In respect of their Item 9.2.9 SDCC state:

Item 9.2.9: The applicant should submit a drawing showing plan and cross-sectional views of existing SuDS (Sustainable Drainage Systems) features for the development. These shall be maximised within the surface water design strategy for the development.

Our Response

Traditional "Hard Engineered" drainage designs can effectively bypass the natural buffering effect of vegetation and soils and as a result, post-development surface water run off rates and discharge volumes can increase discharge significantly to receiving watercourses. SuDS can greatly improve upon such issues by allowing a more sustainable and natural surface water drainage regime to be implemented.

As demonstrated clearly in the responses to items 9.2.4 and 9.2.8 above, surface water attenuation capacity is realised within the site whereby runoff and direct rainfall entering the site is subject to seepage into groundwater and evaporation, while more extreme storm events are significantly attenuated by the large storage capacity of the pits. Discharge off site from collected rainfall and groundwater from SW1 is infrequently conducted and only done so during periods of prolonged rainfall and to prevent water levels reaching the pump's infrastructure on an adjacent benched area. This is not as a result of any deficit in attenuation capacity of the site.

As such, specific engineered SuDS drainage features were not required on site as there was no significant effect from the activities at the site on the surface water drainage environment during the review period of the rEIAR, (rEIAR Section 1.7.1 refers).

In respect of Item 9.2.10 the local authority states the following.

Item 9.2.10: The applicant is required to show how surface water runoff is cleansed of silt and other pollutants such as hydrocarbons on site prior to discharging to the public surface water network and/or watercourse. This also relates to existing wheel wash facilities. Only clean uncontaminated water shall be discharged to the public surface water network and/or watercourse. The applicant should also show the locations of proposed and existing petrol / oil interceptors on site.

Our Response

As identified in the responses to items, 9.2.4, 9.2.8 and 9.2.9, limited surface water runoff is discharged to the N7/M7 roadway drainage system, (and a tributary of the River Griffeen where it was assumed for the purposes of the assessment to discharge).

To confirm, wheel washes and hardstanding areas associated with fuelling are not connected to public surface water systems.

Section 6.7 of the rEIAR describes the 'Characteristics of the Development' and the 'Embedded Mitigation' (Section 6.7.1).

In respect of Item 9.2.11 SDCC states:

Item 9.2.11: The applicant is required to submit a drawing showing plans, locations and details of all water pollution mitigation measures.

Our Response

As identified in the repose to item 9.2.7 and earlier in this document, the relocated fuel storage and fuelling area on site will be the subject of a forthcoming planning application to regularise the relocation in planning terms.

Pollution mitigation measures associated with the fuel storage and refuelling area include e.g., tank bunding, hardstanding and the relocated fuel/oil interceptor. The planning application for this relocated fuelling area will include, as appropriate, surface water drainage layouts and the locations of all pollution mitigation devices.

In respect of Item 9.2.12 SDCC state:

Item 9.2.12: Fuel tank leakages must not allow polluted water to enter surface water drainage network. Demonstrate that all works comply with the Greater Dublin Regional Code of Practice for Drainage Works in this regard.

Our Response

As identified in the responses to item 9.2.10 above, limited surface water runoff is discharged to the N7/M7 roadway drainage system. To confirm, wheel washes and hardstanding areas associated with fuelling are not connected to public surface water systems.

Item 9.2.13: The applicant should also show the locations of existing petrol / oil interceptors on site. All petrol/oil interceptors on the surface water drainage network should be of Class I standard as per the requirements of the Greater Dublin Regional Code of Practice for Drainage Works.

Our Response

As identified in the repose to item 9.2.7, 9.2.11 and earlier in this document, the relocated fuel storage and fuelling area (and associated fuel/oil interceptor) on site will be the subject of a planning application to regularise the relocation in planning terms.

Pollution mitigation measures associated with the fuel storage and refuelling area include e.g., tank bunding, hardstanding and the relocated fuel/oil interceptor. The planning application for this relocated fuelling area will include, as appropriate, surface water drainage layouts and the locations of all pollution mitigation devices.

In the preparation of the application, the applicant will ensure the proposal complies with the Greater Dublin Regional Code of Practice for Drainage Works, as appropriate.

Item 9.2.14: The applicant is required to submit a drawing in plan outlining the existing and proposed water supply layout for the development. Maps of the public watermains and Wastewater drainage networks may be obtained, if available, for required locations in by emailing: datarequests@water.ie. Where a water supply connection is required, the applicant is required to engage with Irish Water through the submission of a Pre-Connection Enquiry (PCE) in order to determine the feasibility of connection to the public water infrastructure. The Confirmation of Feasibility (COF) must be submitted to the planning department as the response to this further information request, Pre-connection enquiries can be made at https://www.water.ie/connections/get-connected/

Our Response

To confirm, the site does not abstract water from public water mains system and did not during the review period of the retrospective assessment (from 1st February 1990).

Section 6.4.4 of the rEIAR documents the 'Site Water Requirements and Management' during the review period, (from 1st February 1990). Any welfare and process water requirements for site activities were met either by abstraction wells located in the northern or central areas or by rainfall runoff collected at topographical low-points of the site; these have also been the arrangements on site pre-1990. Any abstraction boreholes used during the review period have been subsequently lost and replaced by the current abstraction infrastructure. The existing abstraction well ('operations water well') is identified on both Drawings 4A and 4B, submitted as part of the s261A substitute consent application pack. Section 6.4.4 of the rEIAR also identifies the operational water abstraction from the pond in the western pit area. These water supply arrangements are also documented in Section 2.3.12 ('Potable, Surface and Groundwater) and Section 12.4.5 of the rEIAR, ('Local Water Supplies and Foul Water Network').

To confirm, a water supply connection is not required on site.

Item 9.2.15: The proposed development is in close proximity to a 1270mm concrete public watermain which runs through the site from west to east. The applicant is required to submit a drawing in plan and cross-sectional views which clearly shows the distance between all existing and proposed structures and the public watermain as well as existing and proposed cover levels over the watermain. The applicant shall engage with Irish Water's diversions section to assess feasibility of existing design and determine what the required separation distance is from the existing public watermain traversing the site. The outcome of this engagement with Irish Water's diversions shall be submitted to the planning authority as a response to Request for Further Information.

Our Response

The wayleave for the Irish Water 1270mm Liffey aqueduct water main in the north of the site has been identified on Drawings 3A, 3B, 4A and 4B, submitted as part of the s261A substitute consent application pack. In addition, the water main is assessed as part of Chapter 12 of the rEIAR (Material Assets) and a map of the route is provided in Appendix 12.3. The map provided by Irish Water indicates the water main has been in place since 1940 and before this assessment period (from 1st February 1990).

Approximate locations of the watermain have been indicated on the cross section supplied with this response, (located in Appendix B). Precise locations and other information requests with Irish Water will be identified through engagement with the applicant as part of the s37L application process.

Section 12.6.4 of the rEIAR documents potential effects on the 'Local Water Supplies and Foul Water Infrastructure' during the review period, (from 1st February 1990). During this period the site activities (e.g., excavation and blasting) were considered to have resulted in negligible effects on the Liffey aqueduct watermain.

Item 9.2.16: The applicant is required to submit a drawing showing existing foul water drainage layouts up to and including the point of connection to the public foul water sewer. The drawing shall include the location of all Aj's, manholes, pipe size, material type and direction of Now. The drawing shall clearly show that the foul and surface water systems are discharging to separate pipe networks. Maps of the public watermains and Wastewater drainage networks may be obtained, if available, for required locations in by emailing: datarequests@water.ie. Where a wastewater connection is required, the applicant is required to engage with Irish Water through the submission of a Pre-Connection Enquiry (PCE) in order to determine the feasibility of connection to the public wastewater drainage infrastructure. The Confirmation of Feasibility (COF) must be submitted to the planning department as the response to this further information request. Pre-connection enquiries can be made at https://www.water.ie/connections/get-connected/

Our Response

To confirm, the site does not discharge foul water to public foul water sewers.

Section 6.4.4 of the rEIAR documents the 'Site Water Requirements and Management' during the review period, (from 1st February 1990). Wastewater management requirements at the site were subject to a holding tank configuration similar to what is currently installed at the site. Welfare wastewater is discharged to a holding tank in the northern area of the site, and is periodically emptied by a contractor. The location of the sewage holding tank has been identified on Drawing 4B, and a separate drawing (plan and section) of the sewage holding tank has been provided on Drawing 7, (submitted as part of the S261A substitute consent application pack). As such, foul and surface water systems are separate and not connected.

In order to resolve a number of concerns identified above SDCC have recommended a number of planning conditions be imposed. Our comments on these conditions is set out below.

Our Client's acceptance of Proposed Planning Conditions from SDCC

The Council propose a substantial range of planning conditions and the Board should take comfort from a detailed assessment of the application by the local planning authority in the first instance as indicated above and from such an extensive range of conditions which the Board are obviously entitled to accept, modify, or add to.

Section 9.3 is where the local authority suggests a number of conditions that would assist in meeting their stated concerns about the further development anticipated within this S261 application. Our client has read these conditions and will accept all these conditions. We note that the conditions suggested by SDCC in this instance are modelled on the original Substitute Consent application. Section 9.3.1 refers.

Condition 1: General
We support this condition clarifying the extent and nature of development permitted.

Condition 2: Digital Terrain Model
Our client agrees to submit a Digital Terrain Model prepared by a professionally qualified surveyor agreed by the Planning Authority.

Condition 8: Communication and Consultation
Our client agrees to the means of consultation and the availability of information and personnel required to engage with local residents and interested parties including names, responsibilities, contact details etc.

Condition 9 Access for Monitoring
Our client agrees to this condition allowing any authorised officer of SDCC, the HSE, or the EPA, or their successors, to enter into the application site.

Condition 10 Updated Digital Terrain Model
This model shall be provided by the applicant and submitted to the local planning authority five years from the date of any grant of planning permission and thereafter over 5-year periods.

Condition 11 Annual Environmental Audit
Our client accepts this condition and will meet its requirements including a record of all movements of heavy vehicles outside permitted operating hours; a record of surface water quality and ground water quality and levels, measured at monthly intervals; breaches over the previous year of dust, noise, vibration/air over pressure and water quality standards; and, a written record of all complaints received and actions taken on each complaint.

Condition 13 Control of External Lighting
The current scheme of external lighting shall be submitted and agreed with SDCC. Where necessary measures shall be included to provide adequate screening from adjacent residential areas where appropriate, and to minimise any light overspill.

Condition 14 Advance Warning Signs
Our client will accept this condition which is relatively standard for quarry planning permissions.

Condition 15 Maintenance of Public Roadway
This is another relatively standard condition for a quarry and our client will accept its imposition on any grant of planning permission.

Condition 16 Wheel Wash Facility
This is a standard planning condition for quarries which our client accepts.

Condition 17 Surface Water Run-Off
Our client accepts this condition which seeks to prevent water pollution. No surface water run-off shall be allowed by the applicant to flow onto the public roadway or adjoining properties, and they will not discharge to any effluent disposal system or public foul sewer.

Condition 18 Discharges to surface or ground waters
Our client agrees to there being no effluent from the subject development discharging to surface or ground waters.

Condition 19 Surface water run-off from open cut areas
The applicant will take all reasonable measures to ensure that there is no surface water runoff from open cut areas that will flow directly into any stream or watercourse.

Condition 20 Ground water levels
Our client agrees to ground water level monitoring, the production of water balance report and a twice per annum water quality sample of water from the quarry floor water impound area that will be tested.

Condition 22 Settlement Ponds
This is condition is acceptable to our client and it requires settlement ponds to be cleaned out monthly.

Condition 23 Details of drainage arrangements
Full details of all existing and proposed foul and surface water drainage arrangements for the entire site shall be submitted to SDCC for their written approval, within 6 months of any grant of planning permission.

Condition 29 Storage of Topsoil
All topsoil removed will be reused by spreading evenly over the worked surface of backfilled. That topsoil will be used for on-going landscaping and will be stockpiled in a manner so as to ensure that the soil flora and fauna are not destroyed.

Condition 30 Security for compliance with conditions
A bond will be lodged with SDCC for the satisfactory completion of rehabilitation and aftercare works.

Condition 31 Archaeological Impact Assessment
An Archaeological Impact Assessment (AIA) will be undertaken upon the grant of planning permission.

Condition 33 Quarry Abutting Roadway
Where the face of the quarry working abuts a public road and is below the level of the roadway the distance from the edge of the excavation to the adjoining road boundary our client agrees will not be less than 30 metres.

Condition 35 Access to quarry
No access shall be provided from or to the minor public road adjoining the quarry lands to the south unless a separate planning permission is first obtained.

Condition 36 Screening of Exposed Quarry Cliff Face
Within 3 months a landscape screening plan to be undertaken by a qualified landscape architect and agreed with SDCC.

Condition 40 Burning of Waste
No burning, disposal or mixing of waste materials or use of waste materials in boilers should take place without the prior consent of the local authority.

Condition 41 Waste Management
Extractive waste to be managed so as to not cause damage to the environment (i.e., water, air, soil, and fauna/flora nor to human health.

Condition 42 Non-extractive waste
All non-extractive waste to be managed in accordance with the Waste Management Act 1996 as amended.

Condition 43 Waste Storage Management
Designated areas to be used for particular waste types and authorised waste collectors to be used for collection, reuse and disposal of waste oils, batteries, tyres, domestic waste and scrap metal in compliance with the Waste Management Act 1996 as amended.

Condition 44 Waste Management Plan
Within 3 months a waste management plan is to be submitted for the agreement of the local authority.

Condition 45 Imported waste management
Imported waste to the site shall be authorised by the local authority. Please note that the importation and recovery of waste materials at the site has ceased and is not an intended use at the site in future. Our client will accept such a planning condition in any case.

Condition 46 Waste Facility Permits
The applicant shall comply at all times with all conditions on existing wate facility permits and Water Pollution discharge licence and no development or change of use shall be undertaken that would conflict with such permits without prior approval. However, as indicated for recommended condition 45 above, the importation and recovery of waste materials at the site has ceased. Any future waste activities at the site would be subject to planning and waste authorisation from the competent authority.

Condition 47 Annual Environmental Report
Our client agrees to the imposition of this planning condition which is standard for quarries and whose requirements are set out in the suggested condition by SDCC. It is noted and accepted by the applicant that this requirement is in addition to the Annual Environmental Audit requirement set out in suggested Condition 11 above. The above are relatively standard planning conditions imposed by local authorities. The following suggested conditions emanate from the various departments of the local planning authority and are considered by us to be more bespoke or unique to the to the circumstances of this particular application.

Condition 9.3.2 Roads
Our client will accept a planning condition requiring that within 6 months of any Substitute Consent in this instance that proposals for an upgraded access junction at the N7 shall be submitted for the written agreement of the Planning Authority. The applicant will submit a revised site entrance layout onto the N7 conforming to the current TII guidelines on access onto regional roads. This plan shall be fully operational in accordance with a) and b) in a timeline agreed with the Planning Authority which is no later than two years after the date of this permission.

Condition 9.3.3 Dust
Our client will accept a planning condition requiring a programme for identification and reduction of fugitive emissions for submission to SDCC within 6 months of the date of planning permission. This shall specify dust deposition levels. It shall also require submission of results on a quarterly basis for agreement by the local authority. Current site-specific mitigation measures to control dust which have been employed since 1990 shall be submitted for the written approval of SDCC.

Condition 9.3.4 Noise
Our client also agrees to this planning condition which is relatively standard for quarry developments. This limits noise limits noise levels and the periods that audible tones or impulsive noise shall take place. Our client accepts that monitoring under this SDCC recommended condition will be required to take place.

Condition 9.3.5 Vibration

Our client agrees to this recommended planning condition from SDCC controlling vibration.

Condition 9.3.6 Water Services
Our client will provide a drawing in plan form outlining existing and proposed water supply layout for the subject development.

Condition 9.3.7 Distance to the Public Watermain
A plan is required showing the distance between all existing structures and the public watermain as well as existing cover levels over the watermain. This will be provided.

Condition 9.3.8 Compliance with Irish Water Standard Details and Code of Practice for Water Infrastructure
The applicant accepts that compliance with Irish Water standards is required in this instance.

Condition 9.3.9 Submit surface water drainage plans for the development
The applicant will submit a drawing showing existing surface water drainage layouts including attenuation and pollution mitigation devices up to and including the point of connection to the public surface water sewer. Foul and surface water discharges will be separated as requested.

Condition 9.3.10 Flood run off
As indicated above limited surface water is discharged to the N7/M7 roadway drainage system. To confirm wheel washes and hardstanding areas associated with fuelling are not connected to public surface water systems but our client will accept this recommended planning condition as assurance going forward.

Condition 9.3.11 Submission of a plan and cross section view of SUDS features for the development
As indicated in 9.2.9 above specific engineered SuDS drainage features were not required on site as there was no significant effect from the activities at the site on the surface water drainage environment during the review period of the rEIAR, (rEIAR Section 1.7.1 refers).

Condition 9.3.12 Cleansing of surface water in regard to silt and other pollutants
The applicant will abide by any such condition and this practice already occurs on site.

Condition 9.3.13 Drawing to be submitted showing plans, locations and details of all water pollution mitigation measures to be approved by the local authority
Our client will meet this requirement and accept such a planning condition

Condition 9.3.14 Fuel tank leakages shall not allow polluted water to enter the surface water drainage network
Our client will abide by such a planning condition.

Condition 9.3.15 The applicant shall show the locations of existing petrol/oil interceptors on site
Our client will meet this requirement and accept a planning condition to this effect requiring also that all petrol and oil interceptors on the surface water drainage network shall be of Class 1 standard as per the Greater Dublin Regional Code of Practice for Drainage Works.

Condition 9.3.16 Foul Drainage
The applicant will accept a planning condition advocated by SDCC in this regard. Such a plan will include point(s) of connection to the public foul water sewer and shall include the location of all Ajs, manholes, pipe size, material type and direction of flow.

Condition 9.3.17 Compliance with Irish Water Standard Details and Code of Practice for Water Infrastructure

This is a repeat of suggested condition 5.4.8 above, which our client agrees their willingness to comply with.

Condition 9.3.18 Development Contributions
Our client agrees to pay the contribution specified in suggested condition 5.4.18.

It is noted that, within the suggested conditions section of the SDCC submission, the local authority request that the full restoration of the site shall form a separate planning application which shall be submitted within 6 months of the date of planning permission. Our client will accept such a planning condition.

3. Transportation Infrastructure Ireland

The observation from TII indicates that the rEIAR details amendments that should be implemented to ensure that the improvements to the access junction to the N7, national road, should be implemented to the satisfaction of the County Council. TII also recommends, not a refusal, but that 'prior to commencing any statutory planning approval process the submission of a Design Report to TII in accordance with TII Publications (Standard) DN-GEO-03030 should be included as condition of any permission granted. The cost of any works is the responsibility of the applicant/developer.'

Matching Concerns against Suggested Planning Conditions

We believe that the issues raised by all other parties to whom access of observations have been provided by the Board can be dealt with by way of planning condition in each instance as set out on Table 1 below. This should give the Board reassurance that permission can be granted in this instance.

Table 1: *Issues Raised against Suggested SDCC Planning Conditions*

Observation	Item No.	Issue /Requirement	Suggested SDCC Planning Conditions
Dept of Defence	**1**	Aviation Light Assessment	N/A but we suggest that this be dealt with by way of planning condition.
SDCC	**9.2.1**	Full extent the retrospective development.	Recommended SDCC Condition 1
	9.2.2	The use of the word average when describing the average depth of 173mAOD	Recommended SDCC Condition 2
	9.2.3	Tracing planning permission	Recommended SDCC Condition 1 would deal with this.
	9.2.4	Clarity should be sought regarding various aspects of the rEIAR	Condition not required – covered by recommended condition 1.
	9.2.5	Definition of works of quarrying	Recommended SDCC Condition 1
	9.2.6	Evidence of the high-risk alien invasive species (Japanese Knotweed) from rEIAR	See our response on 9.2.6 and no invasive species detected in site surveys. No condition considered necessary.

	9.2.7	Surface water drainage plans	Recommended SDCC Condition 17
	9.2.8	Surface water is management and attenuation	Recommended SDCC Condition 18
	9.2.9	Cross-sectional views of existing SuDS	Recommended SDCC Condition not considered to be required.
	9.2.10	Cleansing of surface water runoff	Recommended SDCC Conditions 16 (wheel wash etc) and 17 (surface water run off) and 19 (run off from open cut areas). See also 9.3.9.
	9.2.11	Water pollution mitigation measures	Recommended SDCC Conditions 18 (discharges to surface and ground waters) and 23 (details of drainage arrangements). Also 9.3.12 and 9.3.13 above.
	9.2.12	Demonstration that all works comply with the Greater Dublin Regional Code of Practice for Drainage Works	Recommended SDCC Condition 23
	9.2.13	Locations of existing petrol / oil interceptors on site	To be determined and conditioned with further application for fuel area.
	9.2.14	Existing and proposed water supply layout for the development	Recommended SDCC Condition 9.3.6 and 9.3.8
	9.2.15	Distance between all existing and proposed structures and the public watermain	Recommended SDCC Condition 9.3.7 and 9.3.8.
	9.2.16	Existing foul water drainage layouts up to and including the point of connection to the public foul water sewer	Recommended SDCC Condition
TII	**3**	Submission of a Design Report to TII in accordance with their TII Publication (Standard) DN-GEO-03030	Condition requires submission of a Design Report to TII in accordance with their TII Publication (Standard) DN-GEO-03030, if considered necessary. SDCC recommended condition 9.3.2 also refers.

Conclusion

In conclusion, the Department of Defence did not indicate that it opposed the application or recommend a refusal. Its request for the Aviation Impact Assessment appears a routine exercise as opposed to being based upon real concerns in respect of possible effects of the quarry. However, we believe that sufficient information has been submitted to address this matter.

While SDCC has raised certain concerns in respect of the application for Substitute Consent, it recognises that the application is permitted under the relevant provisions of the County Development Plan.

SDCC does not suggest refusal and instead demonstrates its support for the application by providing a comprehensive series of conditions to be attached to a grant of substitute consent by An Bord Pleanála. We confirm that our client, the applicant, is willing and pleased to comply with such conditions attached to a grant of Substitute Consent by the Board. Furthermore, our client intends to regularise the unauthorised development identified by submitting fresh applications for retention permission to SDCC planning authority.

The observation from TII includes a recommendation that a pre-commencement condition is attached to a grant of permission of Substitute Consent with which our client is pleased to comply. The recommended condition from TII indicates that they also support the application in principle.

We trust the Board are in a position to proceed with a determination.

Yours sincerely,

Eamonn Prenter MIPI MRTPI
Director
CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN

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APPENDIX A
INVASIVE SPECIES SURVEY REPORT

APPENDIX B
WATERMIAN CROSS SECTION DRAWING

BEHAN QUARRY INVASIVE SPECIES SURVEY

Context

In June 2021 a planning application under Section 261A of the Planning and Development Act, 2000 as amended, was submitted to An Bord Pleanála (ABP) on behalf of Mr. Laurence Behan of Behan, Behan Quarry, Windmillhill, Rathcoole, Co. Dublin. On 24th February 2023 ABP requested a response to a number of observations received from the second and third parties in respect of this Substitute Consent application. Item 9.2.6 of the South Dublin County Council (SDCC) submission requested further information relating to the potential presence of invasive species.

> *"Section 11 Landscape and Visual of The Planning Report for file reference SDQU05A/4 states "During the site visit there was evidence of the high risk alien invasive species Fallopia Japonica (Japanese Knotweed) on the external perimeter of the site adjacent to the entrance area. There is a real danger that it may already be present on the quarry site...as it could be imported into the site on the material for recycling or exported unwittingly…" The Planning Authority cannot trace mention of this species within the rEIAR, nor can it trace a Flora Assessment similar to that carried out for the "Retrospective Fauna Assessment'. Invasive plant species is mentioned fleetingly in Section 3.1.1 of the Remedial Stage 1 Screening for Appropriate Assessment. The Planning Authority recommend that ABP seek clarification on this matter."*

In response to the above request, all lands within the planning boundary were surveyed on the 11th of March 2023. The results are summarised in this document.

Methodology

Surveys were carried out by Steven Tooher ACIEEM, Senior Ecologist with WSP. The active quarry site was initially subjected to a brief drive-around inspection, in order to identify the location of hedgerows, scrub or wherever vegetation was evident. Thereafter, the surveyor proceeded on foot to inspect targeted areas in more detail. The survey also included the as-yet unquarried lands to the south, which at the time of survey comprised agricultural grassland and hedgerows.

The site was inspected for the presence of any floral species listed in the Third Schedule (Part 1) of the Birds and Natural Habitats Regulations (S.I. 477/2011). If any specimen was noted, the following information was collected:

- Species;
- Area coverage;
- GPS location;
- Notes on general condition; and
- Photographs.

General notes were made on the type of habitat comprising each compound, and photographs were taken.

For the purpose of this report, the site has been divided into 3 broad areas (see Figure 1):

A) Lands surrounding the main site office, car park and weighbridge;

B) Hedgerows/treelines around the periphery of quarried lands; and

C) Agricultural lands to the south.

Figure 1. Lands Surveyed

Limitations

The surveys were carried out at a sub-optimal time of year, and parts of the site had a covering of ~2 cm of snow. Whilst woody shrubs such as Japanese knotweed and Rhododendron will have remained visible, any herbaceous annuals will not have been visible, having undergone winter dieback.

This limitation is not considered significant in this context, as the focus of the RFI is Japanese knotweed. Additionally, many trees and shrubs onsite were beginning to produce new foliage at the time of survey.

Results

The site is predominantly an active quarry, which due to the nature of the development and level of disturbance, has resulted in the majority of the site being completely devoid of vegetation. Each area is described in more detail in Table 1.

Table 1. Survey Results

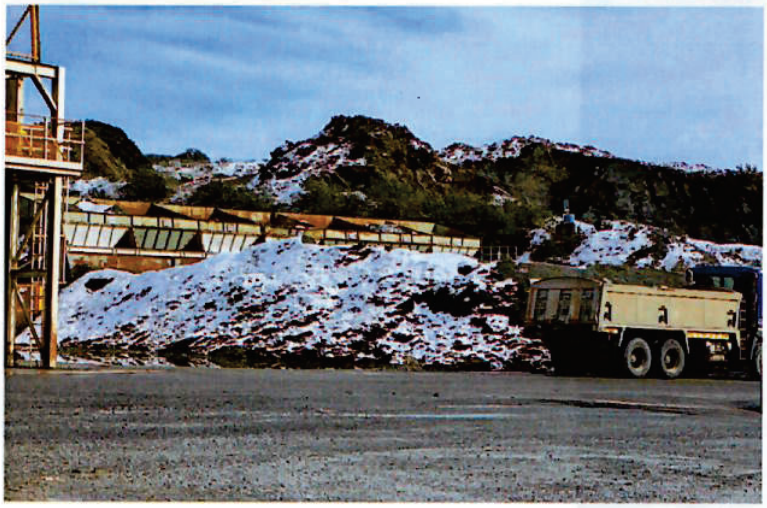
Site Area	Notes	Invasive Species Present? (Y/N)
A	Largely concreted yard with patches of scrub and a small area of woodland. Earthen berm to the west, which is partially-vegetated. Some scrub existed on elevated, steep slopes, the topography of which is of course due to the nature of the site activity. Scrub was dominated by gorse (*Ulex europaeus*) and butterfly bush (*Buddleja davidii*), with frequent occurrence of bramble (*Rubus fruticosus* agg.) and ivy (*Hedera helix*). Specimens of ash (*Fraxinus excelsior*) and willow (*Salix* spp.) were occasionally noted. Two garden escapes were observed – one specimen of spotted laurel (*Aucuba japonica*) and one specimen of giant viper's bugloss (*Echium pininana*). Flowering stems of docks (*Rumex* spp.) were frequent, along with a variety of other common ruderal species. A section of the driveway and the car park to the east is bordered by what is predominantly cypress, but also contained gorse, spruce (*Picea* sp.) and *Buddleja* specimens. Occasional Rhododendron was identified in this area during the survey undertaken in January and February 2021, which noted that the Rhododendron was associated with horticultural planting surrounding an old residence. This was not noted during the current March 2023 survey.	N
B	Hedgerows around the site's periphery comprised mostly gorse, with frequent bramble and *Buddleja*. The presence of broom (*Cytisus scoparius*) was notable along the southern periphery. Other species observed included hawthorn (*Crataegus monogyna*), birch (*Betula* sp.), alder (*Alnus glutinosa*) and pine (*Pinus* sp.).	N
C	This area was predominantly improved agricultural grassland, bordered by hedgerows. The dominant grass species was perennial rye grass (*Lolium perenne*). Hedgerows were dominated by gorse, with frequent bramble and *Buddleja*. Occasional trees included hawthorn, birch, pine, alder and ash.	N

Conclusions

This invasive species survey was carried out in response to a RFI from South Dublin County Council. The site has been inspected for the presence of invasive species as designated under S.I. 477/2011. No invasive species were noted anywhere onsite during the survey.

Given that surveys were carried out at a sub-optimal time of year, and parts of the site had a covering of ~2 cm of snow, it is recommended that the site is re-surveyed for invasive species during an optimal assessment period within the growing season (April to September inclusive).

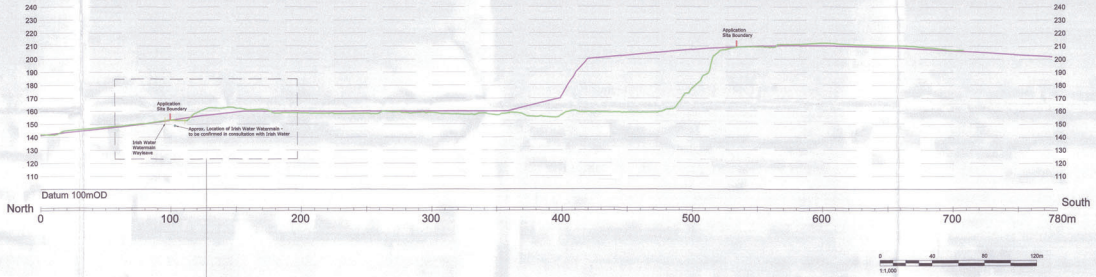
AREA A

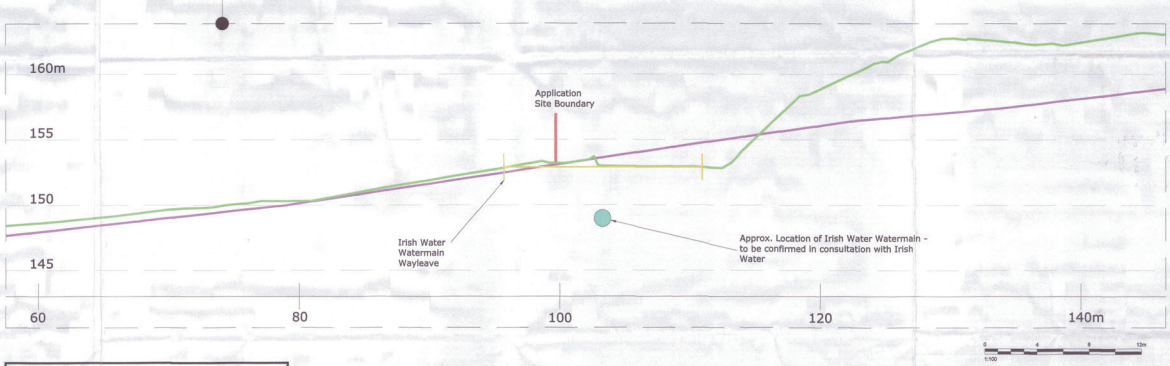


AREA B

AREA C

Cross Section S261A RFI - A_A'





LEGEND:

- BASELINE 1990 (mOD)
- EXISTING GROUND (mOD) (Consistent with original application drawings)
- WATERMAIN WAYLEAVE
- TREES

CLIENT
L BEHAN AGGREGATES & RECYCLING LTD

CONSULTANT
wsp

PROJECT
SUBSTITUTE CONSENT APPLICATION - LAURENCE BEHAN

YYYY-MM-DD	2023-Mar-15
DESIGNED	POB
PREPARED	POB
REVIEWED	KMG
APPROVED	RT

TITLE
CROSS SECTIONS - Original Application Existing & Baseline 1990 - Including Irish Water Watermain

PROJECT NO. 20137776
DRAWING NO. RFI - 01
REV. A
SCALE As shown A0